

Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
Sophy Tabandeh, State Bar No. 287583
sophy@newmanlaw.com
Peri-Elle Cabagnot, State Bar No. 301784
peri-elle@newmanlaw.com
NEWMAN DU WORS LLP
100 Wilshire Boulevard, Suite 940
Santa Monica, CA 90401
Telephone: (310) 359-8200
Facsimile: (310) 359-8190

Attorneys for Plaintiff
LIVED IN IMAGES, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

LIVED IN IMAGES, INC., a
California corporation,

No.:

Plaintiff,

COMPLAINT FOR COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

CALCON MUTUAL
MORTGAGE LLC, a Delaware
limited liability company; and DOES 1-
5,

Defendants.

1 LIVED IN IMAGES, INC. (“Lived In Images” or “Plaintiff”) hereby alleges
2 for its complaint against CALCON MUTUAL MORTGAGE LLC
3 (“CalCon” or “Defendant”) upon personal information as to Plaintiff’s own
4 activities, and upon information and belief as to the activities of others, as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court has exclusive subject matter jurisdiction over this action
7 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this is a claim for copyright
8 infringement arising under the Copyright Act of the United States, 17 U.S.C. § 101,
9 et seq.

10 2. This Court has personal jurisdiction over Defendant because it
11 conducts substantial and continuous business in the State of California and in this
12 judicial district.

13 3. Venue is appropriate under 28 U.S.C. § 1391(b)(1)–(3).

14 **II. PARTIES**

15 4. Plaintiff is a California corporation with its principal business address
16 at 1401 North El Camino Real, Suite 203, San Clemente, California 92672.

17 5. CalCon is a Delaware limited liability company with its principal
18 business address in San Diego, California. CalCon has offices across the country,
19 including in Los Angeles, Riverside, and San Bernardino counties.

20 6. Plaintiff does not know the true names of defendants named in this
21 complaint as Does 1 through 5 and therefore sues those defendants by such
22 fictitious names. Plaintiff will amend the complaint to include the true names of the
23 Doe Defendants and allege facts supporting their liability when Plaintiff learns
24 them through discovery. Plaintiff is informed and believes, and on that basis
25 alleges, that each of the fictitiously named defendants is responsible in some
26 manner for the acts and omissions that give rise to Plaintiff’s injuries, and that the
27 Doe Defendants proximately caused Plaintiff’s injuries.

III. FACTS

A. Lived In Images created copyrightable photographs and registered them with the U.S. Copyright Office.

7. Lived In Images is a leading stock photo archive specializing in home, garden, and interior design pictures.

8. With one of the largest home design databases, Lived In Images offers managed licensing for use of its photographs.

9. Lived In Images registered a group of 5,500 architectural photographs with the U.S. Copyright Office and was issued Copyright Registration No. VA 1-431-181 (November 13, 2009) (hereafter “Group Registration”). A copy of the registration is provided as Exhibit A.

B. Defendant published and displayed a copy of Lived In Images' copyrighted photograph without license or permission.

10. CalCon is a national mortgage and financing company. CalCon has offices in Los Angeles, Riverside, and San Bernardino counties, and obtains substantial revenue from this District. To promote its business, CalCon maintains a website located at <www.ritzscottsdaleloan.com>.

11. On or around June 2014, Lived In Images discovered that Defendant was displaying a copy of its copyrighted image without license or permission on its website. Attached as Exhibit B is a screenshot of Defendant's infringing use.

12. Shortly thereafter, Lived In Images sent Defendant notices by email informing it of the infringing use. Defendant failed to respond.

13. To date, the infringing image is still displayed on Defendant's website.

IV. CAUSE OF ACTION COPYRIGHT INFRINGEMENT

14. Lived In Images hereby incorporates Paragraphs 1-13 by reference.

15. Lived In Images is, and at all relevant times has been, the owner of the copyright of the Group Registration, composed of approximately 5,500

1 architectural photographs.

2 16. Each photograph in the Group Registration is copyrightable subject
3 matter under 17 U.S.C. § 102(a)(5).

4 17. Lived In Images has complied in all respects with the provisions of the
5 Copyright Act and all regulations thereunder.

6 18. Lived In Images registered the copyright in each photograph in the
7 Group Registration with the United States Copyright Office before Defendant
8 began infringement.

9 19. Lived In Images has the exclusive rights under 17 U.S.C. § 106 to (1)
10 reproduce the copyrighted photographs, (2) prepare derivative works based off the
11 copyrighted photographs, (3) distribute copies of the copyrighted photographs, and
12 (4) display the copyrighted photographs publicly.

13 20. Without the permission or consent of Lived In Images, a photograph
14 from the Group Registration was reproduced, derivative works were made from,
15 copies were distributed of, and the photograph was displayed on Defendant's
16 website.

17 21. Lived In Images' exclusive rights in the photographs in the Group
18 Registration were violated.

19 22. Defendant induced, caused, or materially contributed to the
20 infringement.

21 23. Defendant had actual knowledge of its infringement.

22 24. Defendant acted willfully.

23 **V. RELIEF REQUESTED**

24 WHEREFORE, Lived In Images asks this Court to enter judgment against
25 Defendant and its subsidiaries, affiliates, agents, employees, Does 1 - 5, and all
26 persons acting in concert or participation with them, granting the following relief:

27 1. Temporary and permanent injunctions preventing and restraining
28 infringement of the Group Registration, Registration No. VA 1-431-181 (November

13, 2009) by Defendant under 17 U.S.C. § 502;

2. An order requiring the destruction of all copies made by or under the
control of Defendant of the photographs in the Group Registration and all articles
by which such copies may be reproduced under 17 U.S.C. § 503;

3. An award of the actual damages suffered by Lived In Images as the
result of Defendant's infringement plus the profits of Defendant attributable to the
infringement under 17 U.S.C. § 504(b);

4. Alternatively, if Lived In Images so elects, an award of statutory
damages for each infringement of the Group Registration under 17 U.S.C. § 504;

5. A judgment that Defendant's infringement was willful and an
increased statutory damage award under 17 U.S.C. § 504(c)(2);

6. An award of Plaintiff's full costs including a reasonable attorney's fee
under 17 U.S.C. § 505; and

7. For such other and further relief as may be just and proper under the
circumstances.

Dated September 4, 2015.

Respectfully Submitted,

NEWMAN DU WORS LLP

By:

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Attorneys for Plaintiff
Lived In Images, Inc.

JURY DEMAND

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Lived In Images, Inc. demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated September 4, 2015.

Respectfully Submitted,

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Attorneys for Plaintiff Lived In Images, Inc.